

## REMARKS

This Response is submitted in reply to the Office Action dated August 2, 2005. Claims 1 to 60 are pending. Claims 12, 27, 33, 44, 47, 52 and 58 have been amended to correct minor informalities. The Specification and Drawings have been amended, and new Drawings are submitted with this Response. No new matter has been added by these amendments and new drawings. No fee is due in connection with this Response; however, please charge deposit account no. 02-1818 for any insufficiency or credit the account for any overpayment.

The Office Action objected to the Abstract of the Specification for exceeding the number of words permitted in MPEP §608.01(b). Accordingly, Applicants have amended the Abstract to overcome the objection.

The Office Action objected to the Drawings for not showing all of the features recited in Claim 35. In response, Applicants have submitted a New Sheet of Drawings, Fig. 7, to show the feature of enabling a player to accept or reject a selected outcome recited in Claim 35 in compliance with 37 CFR 1.83(a) and have amended the Specification accordingly. Support for the new Drawing and amended Specification can be found at least in original Claim 35; therefore, no new matter has been added by the new Drawing and amended Specification.

The Office Action also objected to the Drawings for not showing the features recited in Claims 44 to 60. In response, Applicants have submitted New Sheets of Drawings, namely Figs. 8A, 8B, 9A and 9B, to show every feature of the invention specified in Claims 44 to 60 in compliance with 37 CFR 1.83(a) and have amended the Specification accordingly. Support for the new Drawings and the amended Specification can be found at least in original Claims 44 to 60; therefore, no new matter has been added by the new Drawings and amended Specification. Accordingly, Applicants respectfully submit the objections to the Drawings have been overcome.

The Office Action rejected Claims 1 to 34, 36, 39 and 42 to 60 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,863,606 to Berg et al. ("Berg").

Applicants disagree with and traverse this rejection for at least the reasons set forth below.

*Berg* discloses a game wherein a microprocessor selects a question and displays the question to the player. The player then presses a designated game control button associated with an answer to the question. If the answer is a desired or correct answer, a value associated with the correct answer appears in the display. If the player depresses the designated game control button and an undesirable or incorrect answer is displayed, an "X" is placed in a display box. The player continues to press the designated game control buttons associated with answers to the question. When the player has achieved all five desirable answers before obtaining three undesirable answers, or the player achieves three undesirable answers, the game is over. The value of the displayed desirable answers is totaled and provided to the player.

The Office Action interprets choosing one of the desirable answers to be equivalent to a first round and a plurality of different outcomes of the first round. The Office Action further interprets choosing one of the desirable answers to be equivalent to a second round and at least one winning outcome of the second round. See Office Action, page 4. Even if such an interpretation is proper, Applicants respectfully submit that *Berg* does not anticipate the claimed invention.

The Office Action refers to tables illustrated in columns 9 and 10 of *Berg*. The Office Action, however, does not explain how the tables teach the claimed invention. The Office Action merely states that Fig. 2-5 and column 8, line 47 through column 10, line 54 show the claimed language. The Office Action does not describe how one of ordinary skill in the art would use these tables to arrive at the claimed invention. Accordingly, for at least the reasons discussed below, Applicants respectfully disagree that the tables in *Berg* disclose the claimed invention.

*Berg* does not disclose a processor operable with a display device adapted to select one of a plurality of different probabilities of providing a winning outcome of a second round based on a selected outcome of a first round, and to determine whether

to provide a player the winning outcome of the second round based on the selected probability of providing the winning outcome of said second round as in Claim 1.

Rather, *Berg* discloses associating a probability with a winning outcome based upon a desired Average Award Value. The probability of achieving a winning outcome in a second selection (interpreted in the Office Action to be a second round) is not based upon a first selection made, but on the master pay table associated with the game. In *Berg*, the Average Award Value Table lists odds of getting all of the values available (associated with all of the correct answers), odds of getting none of the values available (getting no correct answers), odds of getting a terminator before all values are collected (odds of not obtaining all of the desirable answers before obtaining the predetermined number of undesirable answers), average number of picks before termination (before obtaining the predetermined number of undesirable answers), and the average expected payout (Average Award Value). The Average Award Value Table also shows the minimum and maximum award and the total awards available per setup. For example, in row 1 of the Average Award Value Table, for Table 1, *Berg* provides a probability of 50% for achieving all three correct answers, a probability of 5% for achieving no correct answers and an average award value of 113.

Tables 1 to 12 are essentially variations of a standard payable illustrating the actual payout values associated with each correct and incorrect answer. In Tables 1 to 12, *Berg* provides different distributions of award values for different numbers of correct answers in each game. Tables 1, 2 and 3 list values for a game that has three correct answers; Tables 4, 5 and 6 list values for a game that has four correct answers; and so on. The values in each Table have a total payout of 150, and each table has a consolation payout of 10. The values listed in Tables 1, 4, 7 and 10 have a distribution of the total payout according to the curve illustrated in Fig. 3. The values listed in Tables 2, 5, 8 and 11 have a distribution of the total payout according to the curve illustrated in Fig. 4, and the values listed in Tables 3, 6, 9 and 12 have a distribution of the total payout according to the curve illustrated in Fig. 5.

For example, Table 1 is a payable for a game that has three correct answers associated with values having a distribution according to the curve illustrated in Fig. 3.

The number one correct answer has a payout value of 65; the number two correct answer has a payout value of 55; and the number three correct answer has a payout value of 30. Answers 4, 5 and 6 are undesirable answers and have no payout associated with those answers. Therefore, one of ordinary skill in the art can use the information in the Average Award Value Table and the Tables to determine the possible probabilities and award values associated with each of the possible outcomes in the Tables.

For illustration purposes, an example breakdown of the possible probabilities and award values associated with each of the possible outcomes in Table 1 of *Berg* is provided below.

	Possible Awards	Value	Probability	Average Award Value
1	ALL	150 (65 + 55 + 30)	50.00%	75.00
2	AWARDS 1 and 2	120 (65 + 55)	10.00%	12.00
3	AWARDS 1 and 3	95 (65 + 30)	10.00%	9.50
4	AWARDS 2 and 3	85 (55 + 30)	8.25%	7.01
5	AWARD 1	65	7.75%	5.04
6	AWARD 2	55	5.00%	2.75
7	AWARD 3	30	4.00%	1.20
8	CONSOLATION	10	5.00%	0.50
	TOTAL:		100.00%	113.00

Table 1 describes a scenario in which there are three correct answers with an award associated with each correct answer. As illustrated in the above table, the player could get eight possible awards. The player could get all three awards (1), combinations of two awards (2, 3 or 4), one of the awards (5, 6 or 7), or no awards (8). As described above, in the Average Award Value Table for Table 1 (row 1), the probability of getting all correct answers, or getting all the awards, is 50%. The probability of getting no correct answers, or no awards, is 5%. Therefore, one skilled in the art is able to ascertain the possible probabilities associated with the other awards by dividing the remaining 45% probability among the remaining outcomes to achieve an average award value of 113 as required in the Average Award Value Table. The table above illustrates one example of a possible distribution of the 45% probability for each

award and the average award value based on the probability (indicated in bold) according to the criteria defined by the Average Award Value Table and Table 1. One of ordinary skill in the art would be further capable to determine an appropriate probability/weighting to each selection (correct and incorrect answers) of being chosen so as to match to the overall probabilities in the table above.

Thus, as demonstrated above, the relation between the Tables in *Berg* is merely a fixed mathematical relation that remains constant throughout the game. The probabilities are set by the game to conform to the probabilities required to achieve the average award value. One of ordinary skill in the art would recognize that the values listed in the Tables in *Berg* are properly weighted (given a chance of selection) to achieve the appropriate payback shown in the Average Award Value Table.

Therefore, in *Berg*, the probabilities of one selection are not chosen as a result of another selection. In fact, the chances of one outcome being chosen remain constant throughout the entire game. The values listed in Tables 1 to 12 are constant values and are not probabilities of receiving a payout for that answer. The values remain constant regardless of when they are chosen. For example, referring again to Table 1, if the player chooses Answer Number 2, the player will always receive a payout value of 55. Likewise, if the player chooses Answer Number 1, the player will always receive a payout value of 65. It does not matter if Answer Number 2 is chosen before or after the player chooses Answer Number 1. The chances of providing a payout value of 55 when a player chooses Answer Number 2 remains constant throughout the whole game. There is no relationship illustrated in the Tables or further disclosed in *Berg* that choosing one correct answer affects whether a payout value of another correct answer is provided. These chances of selection remain constant and are not altered, changed, or determined based upon a previous selection as in the claimed invention.

For at least the reasons discussed above,

- (a) *Berg* also does not disclose one of a plurality of different probabilities of providing a winning outcome of a second round selected based on the selected outcome of a first round and determining whether to

provide a player the winning outcome of the second round based on the selected probability of providing the winning outcome as in Claim 11;

- (b) *Berg does not disclose a processor operable with a display device to select one of a plurality of different probabilities of providing a positive outcome of a second round based on the number of selected positive outcomes of a first round and a determination of whether to provide a player the positive outcome of the second round based on the selected probability of providing the positive outcome of the second outcome as in Claim 21;*
- (c) *Berg does not disclose a plurality of different probabilities of providing a positive outcome of a second round selected based on the number of selected positive outcomes of a first round and a determination of whether to provide a player the positive outcome of the second round based on the selected probability of providing the positive outcome of the second outcome as in Claim 22;*
- (d) *Berg does not disclose a processor operable with a display device to select one of a plurality of different probabilities of obtaining a modifier of a second round based on the indicated value of the first round such that, the greater the indicated value of the first round, the lower/higher the selected probability of obtaining the modifier in the second round and to determine whether to provide a player the modifier in the second round based on the selected probability of obtaining the modifier as in Claims 23 and 27 and Claims 31 and 33, respectively;*
- (e) *Berg does not disclose a processor operable with a display device to prevent an outcome in a second round associated with an outcome selected in a first round from being obtained in the second round as in Claim 36;*

- (f) *Berg does not disclose not providing to a player a second outcome associated with each first outcome provided to a player and not providing to a player a first outcome associated with each second outcome provided to a player as in Claim 39;*
- (g) *Berg does not disclose selecting one of the plurality of probabilities of obtaining a modifier of a second round based on the number of values provided to the player in a first round and determining whether the player obtains the modifier based on the selected probability of obtaining the modifier as in Claims 44 and 58; and*
- (h) *Berg does not disclose selecting one of a plurality of probabilities of obtaining a modifier of a second round based on the number of values provided to the player in a first round, associating the modifier with a number of selections based on the selected probability, enabling the player to pick one of the selections and, if the modifier is associated with the player picked selection, applying the modifier to any values revealed to the player in the first round to form a modified value of the second round as in Claims 47 and 52.*

Accordingly, Applicants respectfully submit, Claims 1 to 34, 36, 39, and 42 to 60, and the claims that depend therefrom, are in condition for allowance.

The Office Action rejected Claim 35 under 35 U.S.C. §103(a) as being unpatentable over *Berg* in view of U.S. Patent No. 6,485,367 to Joshi ("Joshi"). The Applicants traverse and disagree with the rejection for at least the reasons set forth below.

For at least the reasons discussed above, *Berg* does not teach or suggest providing a processor operable with the display device to select one of a plurality of different probabilities of providing a positive outcome in a second round based on a selected outcome of the first round and to determine whether to provide a player the positive outcome of the second round based on the selected probability of providing the positive outcome if the player rejects the selected outcome of a first round as in Claim

35. In fact, by providing a constant probability through the entire round, *Berg* teaches away from selecting one of a plurality of different probabilities of providing a positive outcome of a second round based on a selected outcome of a first round. As discussed above, *Berg* discloses a constant probability of achieving an award based upon the average expected value for the game. The first selection does not determine the probability of getting the second selection. Therefore, it would not have been obvious for one of skill in the art to modify *Berg* to arrive at the claimed invention.

Furthermore, the Office Action acknowledges that *Berg* does not disclose a processor operable with a display device to enable a player to accept or reject the selected outcome of the first round and provide the player the selected outcome of the first round if the player accepts the selected outcome of the first round as recited in Claim 35. See Office Action, page 23. The Office Action relies on *Joshi* to cure the deficiencies of *Berg*.

Combining *Joshi* with *Berg* to cure the deficiencies in *Berg* is improper. Even if such a combination is proper, *Joshi* at least does not teach or suggest providing a processor operable with the display device to select one of a plurality of different probabilities of providing a positive outcome in a second round based on a selected outcome of the first round and to determine whether to provide a player the positive outcome of the second round based on the selected probability of providing the positive outcome if the player rejects the selected outcome of a first round as in Claim 35.

Therefore, even if it is proper to combine *Joshi* with *Berg*, *Berg* alone, or in combination with *Joshi* does not teach or suggest each of the elements of Claim 35. Accordingly, Applicants respectfully submit Claim 35 is in condition for allowance.

The Office Action rejected Claims 37-38 and 40-41 under 35 U.S.C. §103(a) as being unpatentable over *Berg* in view of U.S. Patent No. 6,033,307 to Vancura ("Vancura"). The Applicants traverse and disagree with the rejection for at least the reasons set forth below.

For at least the reasons discussed above, *Berg* does not teach or suggest the claimed invention. Furthermore, the Office Action acknowledges that *Berg* does not

disclose a display device that is a mechanical device, wherein the display device includes a first position associated with one of the outcomes of a first round and a second position associated with the outcome of a second round that is associated with the outcome of the first round as in Claims 37 and 40. The Office Action also acknowledges that *Berg* does not disclose a processor that is operable to move a display device to a first position to display a selected outcome of a first round, wherein, once the display device is moved to the first position, the display device cannot simultaneously display the outcome associated with said second position as in Claims 38 and 41. See Office Action, page 24. The Office Action relies on *Vancura* to cure the deficiencies of *Berg*.

There is no motivation to combine *Vancura* with *Berg* to cure the deficiencies in *Berg*, and such a combination is improper. Even if such a combination is proper, *Vancura* at least does not teach or suggest each of the elements of Claims 37-38 and 40-41. Furthermore, *Vancura* does not teach or suggest Claims 37-38 and 40-41. A processor operable with a display device to prevent an outcome in a second round associated with an outcome selected in a first round from being obtained in the second round as in Claim 36. Nor does *Vancura* teach or suggest not providing to a player a second outcome associated with each first outcome provided to a player and not providing to a player a first outcome associated with each second outcome provided to a player as in Claim 39.

Therefore, even if it is proper to combine *Vancura* with *Berg*, for the reasons discussed above, *Berg* alone, or in combination with *Vancura* does not teach or suggest each of the elements of Claims 36 and 39 or Claims 37-38 and 40-41 which depend therefrom, respectively. Accordingly, Applicants respectfully submit Claims 37-38 and 40-41 are in condition for allowance.

An earnest endeavor has been made to place this application in condition for allowance and such allowance is courteously solicited. If the Examiner has any questions related to this Response, Applicants respectfully submit that the Examiner contact the undersigned.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY



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**Amendments to the Drawings:**

The attached sheets of drawings include Figures 7, 8A, 8B, 9A and 9B.

Attachment: New Sheets